
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Spread the Gospel, Inc.)	File No. EB-FIELDNER-12-00004339
Licensee of Station WEHA)	
Facility ID # 87809)	NOV No. V201332400001
Port Republic, New Jersey)	
)	

NOTICE OF VIOLATION

Released: November 19, 2012

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Spread the Gospel, Inc., licensee of FM Station WEHA in Port Republic, New Jersey. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On September 11, 2012, agents of the Enforcement Bureau's Philadelphia Office inspected Station WEHA located at 3028 Fire Road, Egg Harbor Township, New Jersey, and observed the following violations:

- a. 47 C.F.R. § 11.52(d)(1): "EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities." At the time of inspection, WEHA was not monitoring the correct EAS sources as specified in the New Jersey State EAS Plan.³
- b. 47 C.F.R. § 11.35(a): "...EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§ 73.1820

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ According to the New Jersey State EAS Plan, WEHA should monitor State Primary Station WJPG on 96.9 MHz and either WABC 770 kHz or New York Public Radio FM radio station (formerly New Jersey Network stations).

and 73.1840 of this chapter for all broadcast streams... ” At the time of inspection, Spread the Gospel, Inc. failed to make entries in the WEHA station logs indicating why it had not received any EAS tests for the past 23 months. The logs only indicated that required weekly tests were being transmitted.

- c. 47 C.F.R. § 73.1870(c)(3): “The chief operator is responsible for completion of...Review of the station records at least once each week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.” At the time of inspection, there was no evidence that the chief operator was signing and dating the station logs.
- d. 47 C.F.R. § 73.1350(b)(2): “The transmitter control personnel must have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control that can satisfy the requirement of paragraph (e) of this section that operation be terminated within three minutes.” At the time of inspection, Spread the Gospel, Inc.’s system used to remotely control the operation of the transmitter was inoperative.
- e. 47 C.F.R. § 73.1350(c)(1): “Monitoring procedures and schedules must enable the licensee to determine compliance with § 73.1560 regarding operating power and AM station mode of operation, § 73.1570 regarding modulation levels, and, where applicable, § 73.1213 regarding antenna tower lighting, and § 73.69 regarding the parameters of an AM directional antenna system.” At the time of inspection, Spread the Gospel, Inc. had no established monitoring procedures and schedules to check for operating power levels or modulation levels.
- f. 47 C.F.R. § 73.1560(b): “Except as provided in paragraph (d) of this section, the transmitter output power of an FM station, with power output as determined by the procedures specified in § 73.267, which is authorized for output power more than 10 watts must be maintained as near as practicable to the authorized transmitter output power and may not be less than 90% nor more than 105% of the authorized power...” At the time of inspection, the output power of Station WEHA was 761 Watts, which is 117% of the authorized power.

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3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Spread the Gospel, Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

5. In accordance with Section 1.16 of the Rules, we direct Spread the Gospel, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Spread the Gospel, Inc. with personal knowledge of the representations provided in Spread the Gospel, Inc. response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

⁴ 47 U.S.C. § 308(b).

⁵ 47 C.F.R. § 1.89(c).

⁶ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁷ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. This Notice shall be sent to Spread the Gospel, Inc. at its address of record.

8. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
District Director
Philadelphia District Office
Northeast Region
Enforcement Bureau

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).